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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/729,848	12/05/2003	Mark E. Herrmann	R0586-701210	8315

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LOWRIE, LANDO & ANASTASI, LLP  
ONE MAIN STREET, SUITE 1100  
CAMBRIDGE, MA 02142

EXAMINER
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HARPER, TRAMAR YONG

ART UNIT	PAPER NUMBER
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3714

NOTIFICATION DATE	DELIVERY MODE
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01/27/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@ll-a.com  
gengelso@ll-a.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/729,848	<b>Applicant(s)</b> HERRMANN ET AL.	
	<b>Examiner</b> TRAMAR HARPER	<b>Art Unit</b> 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

Examiner acknowledges the receipt of Request for Continued Examination filed 12/10/08. Examiner acknowledges receipt of amendments/arguments filed 11/11/2008. The arguments set forth are addressed herein below. Claims 1-29 remain pending, Claims 26-29 are newly added, and Claims 1 and 19 are currently amended.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-6, 8-24, & 26-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisk (WO 00/69535 A1) in view of Fioretti (US 5,351,970).**

**Claims 1-2, 4-6, 10-16, 19-20, & 22-24:** Fisk discloses a bingo gaming system that comprises providing entry into at least one or more bingo game sessions. The system includes a variety of terminal, gaming computers, etc. for implementing multiple bingo games. A player can purchase entry to a bingo game at various gaming terminals or retail locations. Fisk discloses that entry to a bingo game can be done in a variety of ways such as through the Internet, telephone, or ATM interfaces all linked within a bingo network. Also, preprinted cards can be received through the newspaper inserts, lottery instant tickets, etc. All entries are validated and associated with respective player accounts. Furthermore, players cannot participate in games that are currently active,

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but can pay for entry into games that are inactive (Pg. 25:20-Pg. 30:5). Fisk discloses that players can establish a prepaid account through a credit card or debit card for future charges or entries into bingo games. The player or players can receive periodic bills for charges accrued during the previous period (Pg. 12:25-Pg. 13:5- e.g. implies **subscription** and automated renewal into bingo games). Fisk discloses that prepaid bingo tickets can be repeatedly used for subsequent/consecutive bingo games, wherein players purchase a prepaid bingo card for use for a limited number of games before the prepaid amount is consumed. Once the prepaid amount is used anymore plays on the card must be purchased again e.g. the card must be renewed (Pg. 30:5-12). Fisk discloses that in the event that a player has a winning bingo card the pattern cell content of the card is compared to the drawn winning cell content/numbers stored in memory and if there is a match the player is awarded a payout. Payouts vary from jackpot awards to “leaster” awards, therefore based on the type of win gaming system determines the appropriate payout. The numbers are randomly drawn from a game computer and compared via matching computers (Pg. 27:16-24, Pg. 32:17-Pg. 33:33, Pg. 36:1-5, Pg. 3:3-24). Fisk discloses that some of the rules for the game may comprise achieving different combinations of winning patterns on a bingo card (Pg. 37:16-25).

Fisk discloses the above, but is somewhat silent to clearly discloses providing or processing a subscription, wherein the subscription provides entry for at least one player into at least one of a plurality of game sessions. Fioretti teaches a bingo gaming system wherein players can participate in bingo games remote from the actual location

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of the bingo game itself e.g. the call of the numbers (Abstract). Fioretti teaches a system for playing bingo over a wide geographic area through player subscription i.e. where advance orders for game card arrays could be made or purchased via online point of sales terminals. The bingo system can utilize electronic bingo, home computer terminals, cable set-top boxes, or the like for game card array purchases e.g. subscribe to a series of bingo games (Col. 6:3-20, 66-68). Furthermore, Fioretti teaches a playing subscribing to a series of bingo games via mail in order which is a clear indication of a single purchase or subscription to a series of games (Col. 15:24-35). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the bingo system of Fisk with the subscription means of Fioretti to enable a player purchase a subscription to a series of bingo games as taught by Fioretti to provide a more convenient means of a player to purchase bingo games. A lot a players do not like making consistent credit card or bank account purchases for games because of security reasons such as credit theft etc. Furthermore, subscriptions guarantee revenue to the game service provider e.g. it guarantees continuous play thereby increasing sales.

**Claims 3, 8, & 21:** Fisk discloses a special jackpot award wherein a player that must achieve a row of hits in five called numbers on a card (Pg. 39:17-23). This is clearly interpreted as determining a payout based on fixed odds of winning, considering the likely hood or probability of achieving the outcome is significantly high.

**Claim 9:** Fisk discloses that various combination of winning pattern can achieve a “bingo” within the game and that achieving bingo can either end the game or modify the

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game (Pg. 37:10-34). This includes any bingo, which is well known in the art, and basically consists of achieving bingo in any known fashion until a winning bingo is achieved e.g. a bingo game wherein the odds of winning aren't fixed.

**Claims 17-18:** Fisk discloses that at the players' receive bingo game cards that are randomly generated by the card generator/computer within the network (Pg. 12:1-5, Pg. 19:1-8, Pg. 31:1-5). Fisk discloses that alternatively bingo cards cannot be reused in subsequent games, therefore a player has to receive a new card each game (Pg. 34:20-22).

**Claims 7 & 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisk (WO 00/69535 A1) in view of Fioretti (US 5,351,970) in further view of Odom (US 6,581,935).**

**Claims 7 & 25:** Fisk discloses the above with respect to the independent claims, but excludes specifically disclosing determining payouts based on a predetermined payout table, to the at least one player. Fisk discloses that in the event that a player has a winning bingo card the pattern cell content of the card is compared to the drawn winning cell content/numbers stored in memory and if there is a match the player is awarded a payout. Payouts vary from jackpot awards to "leaster" awards, therefore based on the type of win gaming system determines the appropriate payout (see above). Fisk discloses that some of the rules for the game may comprise achieving different combinations of winning patterns on a bingo card (Pg. 37:16-25). However, Odom discloses a bingo type game playable over a network, wherein a player can achieve various winning patterns during a bingo game that are respective of different awards

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based on a payable (Abstract, Col. 4:24-66). It would have been obvious to one of ordinary skill at the time of the invention to have, modified the bingo gaming system of Fisk to incorporate the bingo payable of Odom for purposes of providing various payouts to the player. The more and/or different types of awards available to the player the more incline the player will be willing to player the game. Such a modification would increase player participation because of the increased opportunities to achieve various payouts.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-29 have been considered but are moot in view of the new ground(s) of rejection. NOTE: Examiner interprets a subscription as "a payment for consecutive games for a given period of time", which encompasses payment to a subscription prior to any games played and/or automatic entry into future games.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Yacenda (US 20010003100) teaches a subscription to a plurality of bingo games.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRAMAR HARPER whose telephone number is (571)272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ronald Laneau/  
Primary Examiner  
Art Unit 3714

TH

01/19/09